

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

<b>STEPHANIE SMITH, INDIVIDUALLY</b>	§	
<b>AND AS NEXT FRIEND FOR EAS, A</b>	§	
<b>MINOR,</b>	§	
<b>Plaintiff,</b>	§	
	§	
<b>VS.</b>	§	<b>C.A. NO. 2:14 –cv-626 (JRG/RSP)</b>
	§	
<b>WAL-MART STORES, INC.,</b>	§	
<b>WAL-MART STORES TEXAS, LLC,</b>	§	
<b>and WAL-MART STORES EAST, LP,</b>	§	
<b>Defendants.</b>	§	

**JOINT MOTION TO DISMISS WITHOUT PREJUDICE**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Plaintiff, Stephanie Smith, as Next Friend for EAS, a Minor, and Defendants, Wal-Mart Stores, Inc., Wal-Mart Stores Texas, LLC, and Wal-Mart Stores East, LP, in this action and jointly move to dismiss without prejudice the above-entitled and numbered cause of action, as to Plaintiff, Stephanie Smith, as Next Friend for EAS, a Minor's claim only, and would show the Court the following:

I.

The parties jointly move for a dismissal without prejudice of Plaintiff, Stephanie Smith, as Next Friend for EAS, a Minor's claims. By separate motion, the parties' jointly moved for a dismissal with prejudice of Plaintiff, Stephanie Smith's individual claims.

WHEREFORE, PREMISES CONSIDERED, Plaintiff, Stephanie Smith, and Defendants, Wal-Mart Stores, Inc., Wal-Mart Stores Texas, LLC, and Wal-Mart Stores East, LP, jointly move the Court to enter an Order dismissing said cause, without prejudice as to Plaintiff, Stephanie Smith, as Next Friend for EAS, a Minor's claim, against Defendants, Wal-Mart Stores,

Inc., Wal-Mart Stores Texas, LLC, and Wal-Mart Stores East, LP, to the right of Plaintiff to re-file same or any part thereof against Defendants, Wal-Mart Stores, Inc., Wal-Mart Stores Texas, LLC, and Wal-Mart Stores East, LP, with each party to bear its own costs.

Respectfully submitted,

By: /s/ N. Eric Cooper

N. ERIC COOPER

State Bar No. 24036399

The Cooper Law Firm

P. O. Box 2222

500 N. Second Street (75601)

Longview, Texas 75606-2222

Telephone: (903) 297-0037

Facsimile: (903) 236-0035

E-mail: [eric@cooper-law-firm.com](mailto:eric@cooper-law-firm.com)

RALPH F. PELAI, JR.

State Bar No. 15731550

Pelaia Law Center

133 E. Tyler Street

Longview, Texas 75601

Telephone: (903) 230-5600

Facsimile: (903) 230-5656

E-mail: [ralph@pelaialaw.com](mailto:ralph@pelaialaw.com)

**ATTORNEYS FOR PLAINTIFF  
STEPHANIE SMITH, INDIVIDUALLY AND  
AS NEXT FRIEND FOR EAS, A MINOR**

Respectfully submitted,

By: /s/ Edward L. Merritt

EDWARD L. MERRITT

State Bar No. 13967400

JESSICA M. LARUE

State Bar No. 24076019

Harbour, Smith, Harris & Merritt

P. O. Drawer 2072

Longview, Texas 75606-2072

Telephone: (903) 757-4001

Facsimile: (903) 753-5123

Email: [emerritt@harbourlaw.com](mailto:emerritt@harbourlaw.com)

Email: [jlalrue@harbourlaw.com](mailto:jlalrue@harbourlaw.com)

**ATTORNEYS FOR DEFENDANTS**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has this 9<sup>th</sup> day of September, 2014 been served upon all attorneys of record via electronic notification.

Mr. Edward L. Merritt  
Ms. Jessica M. LaRue  
Harbour, Smith, Harris & Merritt  
P. O. Drawer 2072  
Longview, Texas 75606

/s/ N. Eric Cooper

N. Eric Cooper